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FM AMEMBASSY NAIROBI  
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UNCLAS NAIROBI 004483

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E.O. 12958: N/A  
TAGS: [KDEM](#) [PGOV](#) [KE](#)  
SUBJECT: NINTH PARLIAMENT WRAP UP (CORRECTED FORMAT)

REF: A. NAIROBI 4186

- [1](#)B. NAIROBI 3994
- [1](#)C. NAIROBI3830
- [1](#)D. NAIROBI0219
- [1](#)E. 06 NAIROBI 04336

[1](#)1. (U) President Kibaki dissolved the Ninth Parliament of Kenya on October 22, 2007, ending its five year term. Overall, its record was mixed. Parliament made strides strengthening its role as an independent branch of government. At times Parliament served as an effective counterweight to the historically-dominant executive branch, particularly in the field of financial oversight. The Ninth Parliament also had the highest number of women MPs of any Kenyan parliament, 18 out of 222 members. Women members made substantial contributions to key legislation, although their numbers remain low in absolute terms. It passed significant legislation in governance and ethics reform and established a community development fund, an important devolution of decision-making power over development assistance. Yet, domestic political infighting surrounding the 2005 Constitutional referendum caused the parliament to lose its way. Parliamentary party discipline collapsed as a result of political defections by members of both the government and opposition, causing critical legislation to stall: no bills were passed from January 2005 until May 2006. Parliament picked up the pace thereafter, and passed a raft of legislation in its final year and a half. It passed important framework legislation in the economic sector, potentially laying the groundwork for future economic growth and also passed a landmark Political Parties Bill, which is expected to reduce the number of political parties, curtail aisle-hopping defections, and create public political party financing.

[1](#)2. The Ninth Parliament, however, failed to pass anti-money laundering, anti-terrorism legislation and plea bargaining legislation - all key USG priorities. We saw major red flags when Parliamentarians instead voted themselves enormous pay raises in the last year of their session. Now earning over \$15,000 a month with an extremely lucrative 'golden-parachute' package, Kenya's legislators are among the most richly compensated in the world. They also introduced anti-reform amendments and tried to unsuccessfully weaken the mandate of the Kenya Anti-Corruption Commission. End Summary.

A Strong Start: Governance reform to the fore  
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[1](#)2. (U) The Ninth Parliament began its session in February [1](#)2003. Reflecting the comprehensive victory of the coalition of the newly-elected President, Mwai Kibaki, the government had a 42-seat majority. Parliament quickly adopted a raft of governance reform measures, many of which were prepared with the assistance of USG-funded programs. These included the Public Officer Ethics Bill, the Anti-corruption and Economic Crimes Bill, The Privatization Bill, and The Public

Procurement and Disposal Bill. These measures provide a strong framework to bring Kenya's public sector in line with international standards.

13. (U) One of the most popular pieces of legislation adopted by the Ninth Parliament was the Constituency Development Fund (CDF) Bill of 2003, landmark legislation which set aside 2.5 percent of the development budget to be directed to parliamentary constituencies for local development projects. The funds are controlled by the MP of each constituency. While some complained that certain MPs did not use the funds for their intended purpose, CDF projects represent an important step in devolving development funds to the local level and have proved extremely popular with the public. The Act was later amended to increase to 7.5 percent the earmark for CDF. Strengthened Parliamentary capacity  
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14. (U) The Ninth Parliament took measures to strengthen capacity and increase its independence from the Executive branch. Parliament stood up a Parliamentary Service Commission, a key step in institutionalizing legislative independence. It also created a parliamentary Budget Office and a Legal Counsel office. USG financed advisors worked with parliamentary staff to increase staff capacity to provide objective and professional advice. Parliament also created a new standing committee, the Fiscal Analysis and Appropriations Committee, which will have the responsibility to engage the Ministry of Finance on the budget process when it first constitutes as a body next year. These measures bore fruit: in the final year of the Ninth Parliament, MPs introduced and passed more than 25 amendments to the Finance Bill and rejected the government's attempt to weaken the independence of the Central Bank Governor.

15. (U) The parliament committee system was increasingly utilized during the Ninth Parliament. Committee meetings were held more regularly and reported to the body more often. Committees prepared 67 oversight reports compared to 27 reports prepared for the Eighth Parliament. Two parliamentary committees, the Public Accounts Committee (PAC) and the Public Investments Committee (PIC) aggressively asserted their prerogatives to investigate shady public dealings. The PAC conducted an investigation of the Anglo-Leasing corruption scandal. Although the report was never released publicly, it was leaked by a parliamentarian creating a public outcry and putting pressure on the government to prosecute those involved. The PIC also conducted an investigation into the ownership structure of Safaricom, uncovering a questionable transfer of 5 percent of ownership in the partially publicly-owned telecommunications provider.

#### The Role of Women -----

16. (U) The Ninth parliament had the highest number of women parliamentarians of any parliament in Kenya's history, 18 out of 222, although this number remains low in absolute terms. Women legislators successfully proposed the Sexual Offenses Bill of 2006, and played key roles in the passage of important legislation such as the Suppliers Practitioners Management Bill of 2007.

#### Losing the plot: the 2005 Constitutional Referendum -----

17. (U) The divisive political battle over the President's attempt to pass a new constitution paralyzed Kenyan politics for much of 2005, as the entire parliament became obsessed with the constitutional review. Shifting political alignments after the failed 2005 referendum caused confusion, with the line between government and opposition blurred by mutual defections. Parliamentary party discipline collapsed as a result, causing critical legislation to stall. As a result of the political paralysis, the Ninth Parliament passed no legislation from January 2005 until May 2006.

## Post-Referendum: Some Success

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¶8. (U) When the Ninth Parliament resumed activities, economic measures featured prominently. It passed legislation aimed at boosting the cotton industry, better regulating maritime affairs, and reforming the statistics bureau. It also passed significant legislation regulating microfinance, the insurance sector, and established a unified energy regulatory body. The Ninth Parliament ended on a positive note, with the eleventh hour passage of the Political Parties Bill, which is expected to consolidate the number of political parties (now at 110), curtail aisle-hopping defections, and create public political party financing. It also continued work on reforming its internal rules of procedures. As drafted, the new rules would make parliament's work more transparent and public: it envisions committee proceedings open to the public, introduces provisions allowing the public to petition parliament directly, and compels ministers to respond to questions filed by MPs within 48 hours. We expect ratification of the new rules of procedure to be at the top of the agenda for the Tenth Parliament.

## Post-Referendum Red Flags

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¶9. (U) However, the Ninth Parliament also became notorious for its shamelessly self-serving and greedy legislation. It voted itself a shocking pay increase and generous severance benefits, causing public outcry. Kenyan's parliamentarians now earn over \$15,000 a month, which along with an extremely lucrative 'golden parachute' package, make its members among the most highly compensated in the world. Members, furthermore, introduced anti-reform amendments to the Media Bill of 2007 and sought to grant immunity to acts of corruption occurring prior to 2003, although both ultimately failed to pass due to President Kibaki's refusal to consent to the measures. Parliament also failed to enact anti-money laundering and anti-terrorist legislation- key USG priorities - and legislation to enable plea bargaining, a critical step towards decreasing the backlog of cases choking the Kenyan criminal justice system.

## Comment

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¶10. (U) With the anticipated high turnover of MPs following the December 27 national elections in Kenya - and most pundits estimate that well over 60 percent or more of Kenya's incumbents will lose - Post will wait to map out a specific legislative strategy after the elections. We are on the campaign trail now, however, and building relationships with future MPs that should serve us well over the next 5 years.

RANNEBERGER